

# LYNCHBURG CITY COUNCIL

## Agenda Item Summary

MEETING DATE: **July 8, 2003**

AGENDA ITEM NO.: **16**

CONSENT:

REGULAR: **X**

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Special Order by Consent – VWP Permit 98-0167 (Enterprise Drive)**

RECOMMENDATION: Approve attached resolution to consent to a Special Order with the State Water Control Board for the Enterprise Drive project and authorize the City Manager to sign on behalf of the City. Further, adopt a resolution amending the FY 2004 City Projects Fund Budget and to appropriate \$63,500 to satisfy the requirements of the Special Order with the State Water Control Board for the Enterprise Drive project.

### SUMMARY:

As part of the Wyndhurst Development, Enterprise Drive was constructed in 2000 from Laxton Road in Campbell County to Route 221 in Bedford County. This construction required a Virginia Water Protection (VWP) permit from the Virginia Department of Environmental Quality (DEQ) for impacts to Tomahawk Creek and its associated wetlands. Due to changes in City staff, some requirements of the permit that included notifications, monitoring, inspections and reporting were not met. Minimal damage was done to the environmental well being of the streams and wetlands. However, in order to avoid prosecution the City is required to enter into a Special Order by Consent with the State Water Control Board to resolve certain violations of environmental laws and regulations. The special order will revoke the current permit, require the City to apply for a new permit and impose a civil fine. Senior City staff with advice from City and external legal counsel has met with DEQ to negotiate this agreement and believe it is the best agreement available. Staff has already taken action to bring the project into compliance and will continue those efforts throughout the process of obtaining a new permit. The State Water Control Board is scheduled to approve the Order in late September or early October but the final draft must be filed by late July.

### PRIOR ACTION(S):

September 9, 1997 – City Council appropriated \$1,036,219 for engineering design activities for Enterprise Dr.  
May 25, 1999 – City Council appropriated \$ 9,819,848 for construction of the Enterprise Drive Project.

### FISCAL IMPACT:

Included in the Special Order is a civil charge of \$17,000 that is based on a standard schedule for the number and type of violations. The permit will have to be re-issued and reported on yearly for five years. The estimated costs for resubmitting the permit are \$46,500 and yearly reporting costs will be approximately \$3,000. The total estimated FY 2004 cost to get the City into compliance and maintain compliance is \$66,500 with resources of \$63,500 from unexpended appropriations of existing capital projects and \$3,000 from the Department of Public Works FY 2004 operating budget.

### CONTACT(S):

Lee Newland 847-1360 ex 270  
Bruce McNabb 847-1823 ex 268  
Walter Erwin 847-1310

ATTACHMENT(S): Resolution; Draft Consent Order

REVIEWED BY: lkp

Resolution:

BE IT RESOLVED That the Lynchburg City Council consents to the issuance of a Special Order by the State Water Control Board for VWP Permit Number 98-0167; and,

BE IT FURTHER RESOLVED That the City Manager is authorized to execute the necessary documents; and,

BE IT FURTHER RESOLVED That the FY 2004 City Capital Projects Fund Budget is amended and \$63,500 is transferred from unexpended funds from existing City Capital Projects for costs associated with the Special Order concerning the Enterprise Drive project.

Adopted:

Certified:

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Clerk of Council

124L